(1) SBCivil Writ Petition No.344/2006
(Dr.Sahadev Singh Sekhawat & Anr. v. State & Ors.)

(2) SBCivil Writ Petition No.1107/2006
(Umesh Kumar Saini v. State & Ors.)

Date of Order :: 13th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Shambhoo Singh]
Mr. Girish Sankhla] for the petitioner(s).
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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These two writ petitions being substantially based on common grounds are heard together and disposed of by this common order.

The Government of Rajasthan under its circulars dated 27.3.2002, 6.11.2004 and 5.5.2005 prescribed certain guidelines for utilising services of the Junior Specialists and other Medical Officers for medico legal cases, in the event of non availability of Junior Specialists in Forensic Medicines. In the circulars referred above it is prescribed that as far as possible the senior most Medical Officer or the senior most Junior Specialist shall be given the work of Medico Legal cases in the event of non availability of Junior Specialists (Forensic Medicines).

The grievance of the petitioners is that though they are not the senior most Junior Specialists

at the place they are working but the concerned Chief Medical and Health Officer has given the work of attending medico legal cases to them in contravention of the circulars issued by Government reference of which is given above.

No reply to the writ petitions has been filed by the respondents, however, it is contended by counsel for the respondents that the circulars issued by Government of Rajasthan prescribing guidelines for utilising services of Junior Specialists/Medical Officers for medico legal cases are administrative instructions, therefore, the same are not justiciable under Article 226 of the Constitution of India. It is also urged that the guidelines prescribed by the circulars are not mandatory and are simple instructions which are required to be normally adhered. The competent officer is at liberty to exercise his discretion looking to the administrative exigency to assign the work of medico legal cases to any of the Medical Officers/Junior Specialists working in his subordination.

With the consent of counsel for the parties the writ petitions are heard finally.

There is no dispute that the circulars prescribed by the Government of Rajasthan reference of those is given in preceding paras are nothing more

than administrative instructions and are also not mandatory by nature but the guidelines prescribed therein are not meant to be flouted without any just and valid reason. In normal course every government servant is required to adhere the administrative instructions/policies prescribed by the Government. In the instant matters it does not reveal from the orders impugned whereby the work of medico legal cases is assigned to the petitioners as to what was the extra ordinary circumstances for not adhering the administrative instructions given by Government of Rajasthan. If the respondents want to deviate from the norms prescribed by the Government then there should be cogent reasons for that. The adherence of the norms/guidelines does not depend upon the sweet will of the officers for whom these are meant. All possible efforts are always require to be made to act in accordance with norms/guidelines though they may not be possessing statutory force, as these are meant for effective governance.

In view of it, these writ petitions are disposed of with a direction to the competent officer who has passed the orders impugned to review the orders impugned whereby the work of medico legal cases was assigned to the petitioners and to pass fresh orders in accordance with the guidelines prescribed by Government of Rajasthan. If there is any reason for deviating from the guidelines prescribed by Government

of Rajasthan then the same shall be mentioned in the order assigning medico legal cases work to the petitioners or any other Junior Specialists.

The review in pursuant to this order is required to be made within a period of 15 days from today, uptil then the petitioners shall discharge the duties of attending medico legal cases.

No order to cost.

(GOVIND MATHUR),J.

kkm/ps.